THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.20831of 1997

28-03-2007

Between:-

Smt. Karam Muthamma

Petitioner

And

The Principal,
A.P. Residential School (PTG-B),
Chinttoor, Khammam district and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.20831 of 1997

Oral order:

Challenging the order dated 22-04-1997 issued by the first respondent and seeking regularization in the Last Grade Service and all consequential benefits, the writ petition is filed.

The petitioner claims to have been working with the first respondent as Ayah on daily wages since 21-10-1988; to belonging to a Scheduled Caste community; to have made several representations to the Project Officer, ITDA, the second and first respondents for regularization of her service.

The first respondent on 22-04-1997 terminated the daily wage employment of the petitioner on account of

Summer Vacation of the schools. She was thereafter not continued in service. The writ petition is filed in the above circumstances.

On 01-09-1997 this Court granted interim direction to the respondents to engage the petitioner as Ayah. Pursuant to the directions of this Court above, the petitioner was engaged and is being continued.

The respondents have filed an application for vacating the interim orders. By an order dated 17-03-1999 the vacate stay petition was rejected and the interim order earlier granted made absolute.

The first respondent filed a counter stating that as per the service rules of the Society, to hold the post of Ayah one must have passed VIII Class; whereas the petitioner had discontinued in the third class and was therefore ineligible. Even in terms of the Government Order in G.O.Ms.No. 212 dated 22-04-1994, as the petitioner is not qualified for appointment, she cannot be considered for regularization of her services, is the contention.

In *Secretary, State of Karnataka v. Umadevi* [1] the Supreme Court after an extensive analysis of several precedents has restated the law on regularization of casual, daily wage and contract employees. The Constitution Bench of the Supreme Court has held that in public employment regularization cannot be a mode of recruitment and that there should be an existing post and

a transparent method of recruitment for such post. Regularization of casual employment would be illegal and notwithstanding any scheme for regularization there could be no regularization of wholly illegal appointments.

In any event, even as per the scheme of regularization issued by the State Government in G.O.Ms.No. 212 dated 22-04-1994, the petitioner not being qualified for appointment as an Ayah, is not eligible for regularization of her casual service. For all the aforesaid reasons, there are no merits. The writ petition is accordingly dismissed. The interim direction granted by this Court on 01-09-1997 and made absolute on 17-03-1999 stands dissolved. No costs.

GODA RAGHURAM, J

Dated:28-03-2007
Pvks/*

[1] . (2006) 4 SCC 1